

### 3. Contracting Before Shabbat for Work by a Non-Jew

## דִּינֵי הַשְּׁכָרָת אֵינוֹ יְהוּדִי לְפָנֵי הַשַּׁבָּת

1. You are forbidden to have a non-Jew do work for you on Shabbat.<sup>1</sup> This prohibition is based on the Torah's directive, "No manner of work shall be done" (*Shemot* 12:16). *Chazal* made homiletic use of the passive formulation (as opposed to "do not do any work") to legislate that no work may be done (for a Jew) even by a non-Jew (*Mechilta, ibid.*).

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1. **Prohibition of Work on Shabbat by a Non-Jew** Although non-Jews do not observe Shabbat, you may not have them do work for you on Shabbat. *Chazal* instituted this prohibition for fear that Shabbat will be taken lightly and a Jew might come to profane it by working on Shabbat himself. This prohibition also serves to keep the Jew from being preoccupied with activities that would be likely to disturb the sense of tranquility and bonding with *Hashem* that Shabbat requires. For additional laws pertaining to work by a non-Jew on Shabbat see Part IV, Chapter 6.

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2. If, however, the work is given to the non-Jew before Shabbat,<sup>2</sup> even though he actually does it on Shabbat, it is permitted<sup>3</sup> on the following conditions:

- (a) The work should be taken by the non-Jew and removed from your home before Shabbat. You should not take it to him or receive it from him on Shabbat. If the non-Jew does the work in a public place, it should not be commonly known that the work is being done for a Jew.
- (b) You should stipulate in advance what the compensation for the finished work will be, so that the non-Jew will then be working for himself in order to receive payment.<sup>4</sup> If, therefore, you employ a non-Jewish nanny, you may not allow her to do work on Shabbat, as it is clear that any work she does is solely for your and your family's benefit. If you give an item to a non-Jew to be delivered to a certain place to which he

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2. **Requesting a Non-Jew to Do Work *Bein Hashemashot*** You may ask a non-Jew to do a *melachah* on *Erev Shabbat* during the period of *bein hashemashot*, or twilight, for the sake of a *mitzvah* or if it is urgently needed. For example, you may have a non-Jew put on the lights, or relight the gas if it went out on the stove, etc. The period of time during which this is permitted, however, is only up to nightfall, that is, approximately a half hour after sunset.
  3. **Giving Work to a Non-Jew Before Shabbat** You are not obligated to prevent a non-Jew from working for you on Shabbat, if he does the work on his own premises, utilizing his time as he sees fit. For example, you are permitted to bring clothes to the non-Jewish cleaner or shoes to the non-Jewish shoemaker on Friday as long as there is enough time before or after Shabbat for him to do the work then, if he so chooses, and as long as you do not specify that the non-Jew should do the work on Shabbat or (if you drop it off just before Shabbat) that the item must be ready for pick up immediately after Shabbat, so that the non-Jew would have no choice but to do the work on Shabbat.
  4. **Compensation for Work Done** You may arrange for the work to be done by the non-Jew even if no actual amount is stipulated, so long as it is agreed that there will be compensation, or it is generally known that there is compensation for such work. Some permit the non-Jew to do the work without compensation if he does it in appreciation, or in anticipation, of a favor. While others dispute this view, it may be followed, especially if the non-Jew takes the initiative in offering his services.

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is traveling, and he will also be carrying it on Shabbat, you must pay him, so that he will be doing it for compensation.<sup>5</sup>

- (c) The non-Jew should be paid a stipulated amount for the entire job, and not be hired by the day.<sup>6</sup>
- (d) It is forbidden to specify, even indirectly, that the work be done on Shabbat. Nor may you demand that the non-Jew complete the work by a certain time after Shabbat, when it is apparent that he cannot do so unless he works on Shabbat,<sup>7</sup> because this would be tantamount to requiring him to work on Shabbat. For example, you may not send a letter or a parcel through a non-Jew, specifying a time of delivery that would necessitate his travel on Shabbat. Similarly you are forbidden to give money to a non-Jew on *Erev Shabbat* in order for him to buy something which cannot be bought except on Shabbat. You are likewise forbidden to give him anything to sell under such circumstances. If, however, you do not expressly tell the non-Jew to do anything on Shabbat, it is permitted to give him work to do or money to buy something before *Erev Shabbat*, since the non-Jew then has plenty of time to do what needs to be done before Shabbat.
- (e) The work should not be of such a nature that it is connected with the ground, such as building or farming, as this is very public work. In earlier eras, some landowners would rent their fields to sharecroppers who would work the field for the

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- 5. **Mailing a Letter on *Erev Shabbat*** It is permitted to mail a letter, even via registered or express mail, on *Erev Shabbat*. It is preferable to refrain from mailing letters on *Erev Shabbat*, however, if it is likely that some of the postal workers in the local post office are Jews.
  - 6. **Contracting for Work by the Week** A non-Jewish worker may also be hired by the week, with the stipulation that he will be paid his wages irrespective of whether or not he works on Shabbat.
  - 7. **Leaving a Car for Repair Before Shabbat** You may leave your car on Friday in a garage for repairs, provided that the operators and workers are non-Jews, and that there is sufficient time to make the repairs before or after Shabbat. Even if the work is in fact done on Shabbat, it is not your concern, since there was time before or after Shabbat for the work to be done. Moreover, as stated above, since the garage owner is being paid, the work is considered his work.

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owners and take a share for themselves. In such an arrangement, the non-Jew can work the field on Shabbat, despite the public nature of working outdoors, since it is clear that he is working for himself.<sup>8</sup> It is forbidden, however, to have a non-Jew do work on a building on Shabbat, even if you agreed to pay him a stipulated amount for the entire job.<sup>9</sup> In case of urgent necessity, you should consult a rabbinic authority.<sup>10</sup>

3. If, in violation of the prohibition, a house was built for a Jew by non-Jews who worked on its construction on Shabbat, it is proper that he or she act stringently and refrain from dwelling in it. However, there are divergent opinions regarding the law in such a case.<sup>11</sup>

4. The law relating to renting an entire business or franchise to a non-Jew for Shabbat is not the same in every case, but rather depends on the type of business and the local customs. You may rent the kind of business which is common for a non-Jew to rent and it is then understood that the non-Jew is working for himself and his own profit. You may not,

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8. **Joint Ownership of a Business by a Jew and a Non-Jew** In the case of joint or corporate ownership of a business or a store by a Jew and a non-Jew, there is a difference of opinion among the *poskim* about operating on Shabbat. Some rule that a company in which a majority of shares are owned by Jews may not operate on Shabbat. Others are of the opinion that as long as the management is not Jewish, the shareholders are not relevant. In case of a question *lema'aseh*, you should consult a competent rabbinic authority.
  9. **Work on a Building by Non-Jews** You may not have construction work done on a building by non-Jews on Shabbat, even under a job contracting agreement, because of the appearance of wrongdoing (*mar'it ha'ayin*) and the *chillul Hashem* caused when the public perceives it as a desecration of Shabbat by a Jew.
  10. **Building Homes for Homeless Families** In an extraordinary ruling, the *Chatam Sofer* (*Teshuvot, Orach Chaim #60*) permitted the building of homes for Jewish families rendered homeless by war with the work being done even on Shabbat by a non-Jewish contractor and non-Jewish workers, in view of the urgent need to provide shelter for the homeless (see, however, *Teshuvot Noda BiYehudah Kamma, Orach Chaim #12*).
  11. **A House Built by Non-Jews on Shabbat** So serious is this prohibition of having work done on Shabbat that *poskim* are of the opinion that a house built by non-Jewish day laborers would be prohibited to the Jews who had it built. It is therefore clear that under normal conditions, no contracting work should be done in a house on Shabbat, so that Shabbat will not be diminished. In cases of emergency, rabbinic counsel should be sought.

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however, rent to a non-Jew the kind of business, where others will not assume the non-Jew rented it, but that he is in fact working for you. A Jew who rents moving vans, for example, may rent one to a non-Jew before Shabbat even though the non-Jew will use it on Shabbat, because everyone understands that the non-Jew is working for himself when using the van. A Jew may not, however, rent out his grocery store to a non-Jew for Shabbat even though any profits from the day's sales will go to the non-Jew, since it is not common for people to rent out their grocery stores.

5. You are generally forbidden to allow a non-Jew to do work in your home on Shabbat.<sup>12</sup> A non-Jewish maid<sup>13</sup> should not be allowed to do work in the house on Shabbat, even if she does the work for herself.

6. If a non-Jew delivered an item on Shabbat, such as tailored or dry-cleaned clothing, you are permitted to wear it. But, if it is known that the work was finished on Shabbat, you should not wear it, except in a case of necessity.<sup>14</sup> However, you are forbidden to pick up utensils or garments from the house or shop of a craftsman or tailor on Shabbat

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12. **Repairman Working in the House** You may not have an electrician or other repairman do work in your home on Shabbat. If a non-Jewish worker or repairman comes on Shabbat, you must prevent him from doing any work, because otherwise it will appear as though you called him to work for you on Shabbat. In an emergency, however, as in the case of a breakdown of the furnace in the winter, it is permitted to have a non-Jew make repairs on Shabbat.
13. **Non-Jewish Live-in Help** A non-Jewish maid may not do *melachah* on Shabbat for the benefit of her Jewish employers. She may, however, perform chores that can be done in a permissible way, even if she does them in some other way. For example, she may not be told to light the stove or turn on or off lights, since there are no permissible ways for these actions to be performed on Shabbat. However, you may tell her to wash the dishes, since dishes can be washed with cold water and a Shabbat sponge. Since that possibility exists, she may choose to wash them with hot water and a regular sponge since it is her choice to ease the job of washing by doing it in that fashion (see *Mishnah Berurah* 276:27).
14. **Wearing a Garment Completed on Shabbat** If the non-Jew finished the garment on Shabbat, you must wait before wearing it until after the end of Shabbat, for the amount of time that it would take to do the work then, so that you will not benefit from work done for you by the non-Jew on Shabbat. If, however, the garment is absolutely needed for Shabbat, we follow the lenient view that as long as the payment terms are fixed, the non-Jew is considered to be working on his own behalf, and the Jew is permitted to wear it even on Shabbat.

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or on Yom Tov, even from one who is Jewish. You are permitted, though, to take an item from a non-Jewish storekeeper who did not produce the article. For example, if you know the owner of a shoe store, you may go there on Shabbat and take a pair of shoes and wear them, provided you do not set the sales price with the owner, and provided that the merchandise was not brought on Shabbat from outside the *techum*.<sup>15</sup>

7. You are forbidden to rent out workmen's tools, such as a plow, etc., to a non-Jew on *Erev Shabbat*, even though you are not obligated to assure that your tools are not used for work on Shabbat. The reason for the prohibition is that since you receive payment for rental of the tools, and you rented them out *Erev Shabbat*, it appears as though the non-Jew is acting as your agent and working with the tools at your request. You may, however, rent the tools out on Thursday or earlier. You are permitted to lend workmen's tools to a non-Jew even on *Erev Shabbat*, provided that he takes them from your house before Shabbat. Moreover, you may even do so on condition that the non-Jew reciprocates by lending you his tools some other time, as that is still not considered as a rental. It is permitted to rent out ordinary utensils, which are not workmen's tools, even on *Erev Shabbat*, so long as the non-Jew takes them before Shabbat.

8. Renting out tools or utensils in the method outlined above is permissible only if you are not paid separately for their use on Shabbat. That is, the payment for Shabbat must be included with that for the rest of the days, as when the items are rented by the month or by the week and you stipulate payment of a specified amount is for the entire week or month, or even for every two or three days. You are not permitted to receive separate payment for Shabbat even if you rent them

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15. **Taking Merchandise from a Craftsman or a Storekeeper** You are not allowed to take an item from the manufacturer's premises on Shabbat because of the appearance of wrongdoing (*mar'it ha'ayin*), as it will be said that the non-Jew completed the article on Shabbat for you. This would not apply in the case of a storekeeper who is only selling and not producing the item. Some *poskim*, however, do not approve of the practice of taking merchandise from such a storekeeper on Shabbat, even where no purchase is involved, as it is a weekday activity not in keeping with the spirit of Shabbat.

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out for a whole year, but you calculate payment for each day separately. For example, if you rent something out for the year or the month, you may not stipulate payment of a specified amount for each day, even if the non-Jewish renter subsequently pays the full amount at one time. In such a case, you may not take payment due for their use of the items on Shabbat, even for the rental of ordinary utensils with which no work is done, since each day is billed separately, and payment for Shabbat is not included with the rest of the days. The same rule applies to the renting of a room.<sup>16</sup> The prohibition of receiving compensation for Shabbat in the above instances is applicable whether it is from a non-Jew or from a Jew.

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16. **Rental of a Car or Hotel Room** Some permit accepting payment on a daily basis for rental of a car or truck, since payment is in compensation for its wear and tear. Similarly, the fee for rental of a hotel room covers the cost of the food served, and includes its use on *Erev Shabbat* and the use and wear of its bedding and furnishings.